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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,149	11/04/2003	Herbert Gerlach	047777/271178	5498
826	7590	09/12/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				MAYES, MELVIN C
ART UNIT		PAPER NUMBER		
				1734

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/701,149	GERLACH, HERBERT
	Examiner Melvin Curtis Mayes	Art Unit 1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 July 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1 and 3-15 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Objections

(1)

Claim 1 is objected to because of the following informalities:

Claim 1 claims steps of “directing” “applying” “removing” “applying” and “directing” separated by commas but also contains the phrases “before applying binder...” and “thereby producing...” It is suggested that the steps be separated by semicolons to distinguish the steps from the other phrases. As written, the “before applying binder...” phrase reads as an incomplete step since steps of the claim are also separated by commas.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

(2)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

(3)

Claims 1 and 3-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 claims “before applying binder to the first layer...” Does this binder refer to any binder that is applied to the first layer or to the binder applied between the separated powder layers to form transverse seals. According to the specification, the powder can be applied as

mixed with binder [0064] and thus the powder is not necessarily applied before applying any binder. For purposes of examination, the claim is interpreted to encompass embodiments where binder for adhering powder is applied either before or with the powder or not applied but the powder is applied before binder for forming transverse seals is applied.

Claim Rejections - 35 USC § 102 and 103

(4)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(5)

Claim 1 and 3-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Heath et al. 5,494,622.

Heath et al. disclose a method of making an absorbent structure such as a diaper comprising: supplying a continuous carrier layer along a longitudinal direction; continuously transporting the carrier layer through a pattern chamber to apply particles of high-absorbency material to the carrier layer in pocket regions 24 and intermediate sections 50 located between the pocket regions; clearing (removing), via a sweeping means, particles from intermediate sections located between the pocket regions, leaving particles located in separated pocket regions to form a patterns 44 arranged one after the other in the longitudinal direction of the carrier layer; applying, to a continuous covering layer 72, continuous side attachment (longitudinal) regions and intermittent longitudinally-spaced (transverse) medial attachment regions of adhesive such as by printing, extrusion or spraying; adhering the covering layer to the carrier layer and

sandwich the patterns 44 of pocket regions to form a composite web; laminating the composite web with a layer of distribution material; cutting the laminate into pads; laminating the pads between a topsheet web and backsheet web to produce an article web; and dividing the article web into individual articles. As shown in Figures 9 and 10, patterns 44 of pocket regions 24 are spaced longitudinally along the carrier layer between the carrier layer and covering layer (col. 3-16).

Further, by continuously transporting the carrier layer through a pattern chamber to apply particles of high-absorbency material to the carrier layer in pocket regions and intermediate sections located between the pocket regions and removal of particles from the intermediate sections to form patterns before adhering the carrier layer to the cover layer, powder is obviously applied continuously along the longitudinal direction along which a first layer is directed to a second layer and a portion removed to produce powder layers, as claimed.

Further, by applying, to a continuous covering layer, continuous side attachment (longitudinal) regions and intermittent longitudinally-spaced (transverse) medial attachment regions of adhesive and adhering the covering layer to the carrier layer to sandwich the patterns of pocket regions, a binder is obviously applied to a first layer (the carrier layer) at last in strips between the separated powder layers and addition binder applied to the first layer in the longitudinal direction by applying the adhesive to a second layer (the covering layer), as claimed.

(6)

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath et al. 5,494,622 as applied to Claim 1, further in view of Erspanner et al. 2002/0013560.

Erspanner et al. teach that in making an absorbent structure such as a diaper, functional particles for use in the absorbent core include particles which serve as absorbents, odor control agents, fragrances, detergent, antimicrobial agent and the like [0058].

It would have been obvious to one of ordinary skill in the art to have modified the method of Heath et al. for making an absorbent structure such as a diaper by providing, in addition to the absorbent particles, particles of odor control agent and/or detergent, as taught by Erspanner et al., as functional particles provided in the absorbent core of absorbent structures such as diapers. Providing functional particles of odor-control agent and/or detergent with the absorbent particles in pocket regions would have been obvious to one of ordinary skill in the art, as taught by Erspanner et al., as functional particulate material used in the absorbent cores of absorbent structures such as diapers.

(7)

Claims 1, 5, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew 4,675,209 in view of Pelley et al. 5,766,388 and Raterman 5,540,804.

Pedigrew discloses a method of making a laminate for hygienic articles such as diapers comprising: applying adhesive to a moving core stratum in defined areas along the continuous core stratum; passing the core stratum through a container to apply and adhere absorbent particle material onto the core stratum in the areas of the adhesive; contacting both surfaces of the core stratum with brushes and a suction head to remove excess particles not adhered to the adhesive

Art Unit: 1734

areas and which have been deposited on the opposite, thus forming sharply defined areas of absorbent particle material along the core stratum; combining the core stratum with a protector sheet and cover layer; and cutting between the defined areas to form individual articles (col. 3-7). Pedigrew does not disclose applying binder to the core stratum in strips between the defined areas of particles before combining with the cover layer to form transversely extending seals.

Pelley et al. teach that in making laminated absorbent structures, additional process steps include applying an adhesive to the first major surface to provide for lamination to additional layers (col. 2, lines 25-28).

Raterman teaches that in adhering two webs together by adhesive such as for the manufacture of disposable diapers, continuous fine lines of adhesive are deposited along the substrate in a machine direction and a swirl pattern or random fibrous adhesive deposition is applied in a cross-machine (transverse) direction on the substrate at intermittent and selected distances along the fine line depositions to provide migration barrier bands of adhesive to prevent migration of absorbent particles from the cut laminates. The laminate is cut within the cross-machine direction bands of adhesive to form cut-off laminates

It would have been obvious to one of ordinary skill in the art to have modified the method of Pedigrew by applying adhesive to the core stratum to bond to the cover layer, as taught by Pelley et al., as performed in making laminated absorbent structures. Applying the adhesive to the core stratum as continuous lines of adhesive deposited along the machine direction (longitudinal direction) of the core stratum and lines (strips) of adhesive at intermittent selected distances along the cross-direction (transverse direction) would have been obvious to one of ordinary skill in the art, as taught by Raterman, for adhering two webs together for the

manufacture of absorbent structures while preventing migration of absorbent particles from the articles cut from the bonded webs.

By passing the continuous core stratum through a container to apply and adhere absorbent particles to form defined areas along the core stratum, a first layer (the core stratum) is obviously directed along a longitudinal direction (the direction along which the continuous core stratum is passed) for applying a powder layer continuously and to produce powder layers arranged one after another in the longitudinal direction, as claimed.

(8)

Claims 3, 4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew in view of Pelley et al. 5,766,388 and Raterman 5,540,804 as applied to Claim 1, further in view Lang 4,715,918.

Pedigrew discloses that each article can have multiple areas of absorbent particles.

Lang teaches that in making an absorbent article, the article can be provided with superabsorbent material in discrete, separated areas. Lang teaches that the discrete, separated areas of superabsorbent material of the article are isolated in pockets by providing areas of adhesive which surround the areas of superabsorbent material. The areas of adhesive are provided by applying areas of adhesive to covering web to be subsequently laminated to the substrate bearing the areas of absorbent material. As shown in Figure 2, the areas of adhesive can form a cross-hatched pattern that separates the piles of superabsorbent. (col. 3, lines 1-48).

It would have been obvious to one of ordinary skill in the art to have modified the method of the references as combined by also applying adhesive to the cover layer, as taught by Lang, to isolate the areas of absorbent particles in pockets. Applying adhesive to the cover layer

such that transverse seals, as claimed in Claim 3, are formed between the core stratum and the cover layer would have been obvious to one of ordinary skill in the art, as Lang teaches that the adhesive can be applied to the cover layer to form a cross-hatched pattern that separates the absorbent areas and by providing a cross-hatched pattern of adhesive, transverse seals between the core stratum and cover layer obviously result upon lamination.

(9)

Claims 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew in view of Pelley et al. 5,766,388, Raterman 5,540,804 and Lang 4,715,918 as applied to Claim 8, further in view Heath et al. 5,494,622.

Heath et al. teach that in making an absorbent structure such as a diaper by supplying a carrier layer, applying particles of high-absorbency material to regions of the carrier layer and laminating covering layer with the carrier layer, after cutting the laminate into pads, the pads are laminated between a topsheet web and backsheet web to produce an article web for dividing into individual articles (col. 3-16).

It would have been obvious to one of ordinary skill in the art to have further modified the method of the references as combined by, after cutting to form individual articles, supplying the individual articles for further processing, as claimed in Claim 9 and 10, as Heath et al. teach that after the absorbent laminate is cut into pads (individual articles), the pads are subsequently laminated between a topsheet web and backsheet web to produce an article web for dividing into individual articles.

(10)

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew in view of Pelley et al. 5,766,388 and Raterman 5,540,804 as applied to Claim 1, further in view of Erspanner et al. 2002/0013560.

Erspanner et al. teach that in making an absorbent structure such as a diaper, functional particles for use in the absorbent core include particles which serve as absorbents, odor control agents, fragrances, detergent, antimicrobial agent and the like [0058].

It would have been obvious to one of ordinary skill in the art to have modified the method of the references as combined for making an absorbent laminate for a diaper by providing, in addition to the absorbent particle material, particles of odor control agent and/or detergent, as taught by Erspanner et al., as functional particles provided in the absorbent core of absorbent structures such as diapers. Providing functional particles of odor-control agent and/or detergent with the absorbent particles in the adhesive areas would have been obvious to one of ordinary skill in the art, as taught by Erspanner et al., as functional particulate material used in the absorbent cores of absorbent structures such as diapers.

Response to Arguments

(11)

Applicant's arguments filed July 10, 2006 have been fully considered but they are not persuasive.

Applicant argues that Pedigrew requires applying adhesive to the substrate prior to the application of the powder absorbent material, which is different from the present invention which

removed a portion of the continuously applied powder before applying binder at least in strips between separated powder layers.

(12)

As presently claimed, the invention is only limited to applying the binder in strips between the separated powder layer after applying the powder. Applicant is attempting to overcome the rejection based on Pedigrew in which adhesive is applied in defined areas for adhering applied absorbent particle material. However, based on Applicant's own specification, it appears that binder can be applied with the powder. Thus the binder referred to in the Claims does not necessarily apply to any binder applied to the first layer but could broadly refer to the binder applied in strips for sealing the layers together. Nevertheless, Heath et al. clearly disclose forming separated powder patterns before applying binder for adhering layers together along transverse and longitudinal seals around each powder pattern.

Conclusion

(13)

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 1734

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

(14)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234. The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

Art Unit: 1734

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Melvin Curtis Mayes
Primary Examiner
Art Unit 1734

MCM
September 6, 2006